

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Raymond Edward Chestnut,)	C/A No.: 1:13-1870-RBH-SVH
)	
Plaintiff,)	
)	
vs.)	
)	
United States of America; Rory)	REPORT AND RECOMMENDATION
Thompson, Correctional Officer; T.)	
McGirt, Correctional Officer; and)	
LeRoy Jones, individually and in their)	
official capacities,)	
)	
Defendants.)	
)	


Plaintiff, proceeding pro se and in forma pauperis, brought this action alleging violations of his constitutional rights pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971).¹ Defendants filed a motion to dismiss, or in the alternative, for summary judgment on November 8, 2013. [Entry #33]. As Plaintiff is proceeding pro se, the court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), on November 12, 2013, advising him of the importance of the motion for summary judgment and of the need for him to file an adequate response. [Entry #34]. Plaintiff was specifically advised that if he failed to respond adequately, Defendants' motion may be granted. Notwithstanding the specific warning and instructions set forth in the court's *Roseboro* order, Plaintiff failed to

¹ *Bivens* is the case establishing, as a general proposition, that victims of a constitutional violation perpetrated by a federal actor may sue the offender for damages in federal court despite the absence of explicit statutory authorization for such suits." *Carlson v. Green*, 446 U.S. 14, 18 (1980); *see also Holly v. Scott*, 434 F.3d 287, 289 (4th Cir. 2006).

adequately respond to the motion.²

On March 5, 2014, the court ordered Plaintiff to advise whether he wished to continue with the case by March 19, 2014. [Entry #38]. Plaintiff has filed no response. As such, it appears to the court that he does not oppose Defendants' motion and wishes to abandon this action. Based on the foregoing, the undersigned recommends this action be dismissed with prejudice for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO RECOMMENDED.



March 24, 2014
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**

² Plaintiff filed letters with the court on November 28, 2013 [Entry #36], and December 19, 2013 [Entry #37], stating that he did not have sufficient writing paper or the means to do the research necessary to respond to Defendants' motion. The court found these letters to be inadequate responses to the pending motion and, in its order dated March 5, 2014, the court took judicial notice of the South Carolina Department of Correction's policy providing that indigent inmates receive an allotment of envelopes and paper each month. *See Edmond v. Ozmint*, C/A 1:08-3288-GRA-SVH, 2010 WL 3399157 (D.S.C. July 26, 2010).

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).